

**Remarks**

Claims 12-14 and 54 are pending in the current application.

Claims 1-11, 15-53 and 55-61 have been cancelled without prejudice in order to further prosecution.

Claims 12-14 and 54 have been indicated as allowable if rewritten to include the limitations of the base claims and any intervening claims.

Claims 12 and 54 have been amended into independent form and are thus in condition for allowance. Claims 13 and 14 ultimately depend from Claim 12.

The rejections on record are moot.

**IDS**

The applicant reasserts its previous contention that the references on page 1 of the IDS are in compliance with patent rules and that the Office's current position is unfounded and un-defendable.

The Office states that:

"the information disclosure statement is a submission as a whole and since the submission as a whole is improper [thus] the references in the IDS are not considered."

There is no recitation of where one might find such a rule or guideline. The Applicant also asserts that intentionally refusing to consider the limited number of references at issue hints at dereliction of the examiner's duty.

MPEP § 1.98 Content of information disclosure statement.

(a) Any information disclosure statement filed under § 1.97 shall include the items listed in paragraphs (a)(1), (a)(2) and (a)(3) of this section.

(1) A list of all patents, publications, applications, or other information submitted for consideration by the Office. U.S. patents and U.S. patent application publications must be listed

in a section separately from citations of other documents.  
Each page of the list must include:

- (i) The application number of the application in which the information disclosure statement is being submitted;
- (ii) A column that provides a space, next to each document to be considered, for the examiner's initials; and
- (iii) A heading that clearly indicates that the list is an information disclosure statement.

Page 1 clearly meets the requirement and thus the references on the list for page 1 must be considered.

The applicant requests consideration of the references listed on page 1 which comports with the requirement of an IDS.

**Conclusion**

The application is in condition for allowance, including Claims 1-14, 15-32 and 38-54. While an extension of time is not deemed necessary, the Office is requested and hereby authorized to charge the appropriate extension-of-time fees needed to maintain the application pending against Deposit Account No. 04-1679 to Duane Morris LLP.

If any point remains that is deemed best resolved through a telephonic conversation, the Office is hereby requested to contact the undersigned directly.

Respectfully submitted,



Patrick D. McPherson

Reg. No. 46,255

DUANE MORRIS LLP  
505 9<sup>th</sup> Street, N.W., Suite 1000  
Washington, DC 20004  
Telephone: (202) 776-7800  
Facsimile: (202) 776-7801

Dated: 8/11/2010